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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,210	12/15/2000	Barry E. Ambrose	56130.000064	8550
7590 06/25/2004				
Hunton & Williams 1900 K Street, N.W. Washington, DC 20006-1109				
			EXAMINER MIRZA, ADNAN M	
			ART UNIT 2141	PAPER NUMBER 3

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/736,210

Applicant(s)

AMBROSE, BARRY E.

Examiner

Adnan M Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/05/31/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima et al (U.S. 6,563,794) and Naegeli et al (U.S. 6,574,797).

As per claims 1,20 Takashima disclosed a method for data transmissions from a server, comprising the steps of - b) determining the maximum bandwidth for the at least one data transmission (col. 33, lines 59-67); c) determining a delay for the at least one data transmission based on the maximum bandwidth specified; and d) transmitting the at least one data transmission after the delay has expired (col. 25, lines 26-31).

However Takashima did not disclosed in detail a) configuring a maximum bandwidth for at least one data transmission.

In the same field of endeavor Naegeli disclosed the upstream receiver and related hardware components are designed or configured to receive data at the maximum bandwidth at the maximum symbol rate (col. 8, lines 35-38).

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It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated the upstream receiver and related hardware components are designed or configured to receive data at the maximum bandwidth at the maximum symbol rate in the method of Takashima to reduce the congestion during transmission of the data packet and allocation of the bandwidth make it more efficient during data transmission.

3. As per claims 2,12 Takashima-Naegeli disclosed wherein the server comprises a trivial file transfer protocol server (Takashima, col. 4, lines 52-57).

4. As per claims 3,13 Takashima-Naegeli disclosed further comprising the step of: e) enabling the user to specify a maximum number of sessions that may be operated substantially simultaneously (Takashima, col. 4, lines 44-51).

5. As per claims 4,14 Takashima-Naegeli wherein the delay is based on at least the maximum number of sessions specified (Takashima, col. 25, lines 26-31).

6. As per claims 5,15 Takashima-Naegeli disclosed wherein the delay comprises a time delay (Takashima, col. 12, lines 25-33).

7. As per claims 6,16 Takashima-Naegeli disclosed wherein the delay is based on at least a number of data transmissions (Takashima, col. 25, lines 26-31).

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8. As per claims 7,17 Takashima-Naegeli disclosed wherein the step of determining a delay determines the delay based on at least a data packet size, bandwidth, and number of sessions (Takashima, col. 12, lines 25-33 & col. 25, lines 26-31).

9. As per claims 8,18 Takashima-Naegeli disclosed wherein the step of determining a delay determines the delay from a formula  $D = 1000 * (1 / (B * 1000000)) * P * 8 * S$  where D is the delay in milliseconds, B is a bandwidth in megabits per second, P is a data packet size in bytes, and S is a maximum number of sessions.

10. As per claims 9,19 Takashima-Naegeli disclosed wherein the step of configuring configures the maximum 5 bandwidth based on a desired bandwidth specified by a user (Naegeli, col. 8, lines 35-38).

11. As per claims 10,20 Takashima-Naegeli disclosed wherein the step of configuring configures the maximum bandwidth based on a predetermined value (Naegeli, col. 8, lines 35-38).

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*Conclusion*

12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (703)-305-4633.

13. The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dharia Rupal can be reached on (703)-305-4003. The fax for this group is (703)-746-7239.

14. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"), (703)-746-7238 (For After Final Communications).

15. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:

BOX AF

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Commissioner of Patents and Trademarks Washington, D.C.20231


Or faxed to:

Hand-delivered responses should be brought to 4<sup>th</sup> Floor Receptionist, Crystal Park II,  
2021 Crystal Drive, Arlington, VA 22202.



Adnan Mirza

Examiner



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER